

REMARKS

Applicants respectfully request reconsideration and allowance of the above-identified patent application. Claims 1-24 and 26-37 remain pending, wherein claims 1, 5-7, 11, 16, 23, 24, 26, 28, and 34 have been amended, claim 25 has been canceled, and the independent claims include 1, 16, 28, and 34.

Initially, Applicants and Applicants' attorney express appreciation to the Examiner for the courtesies extended during the recent telephonic interviews held on December 13 and 14, 2006. The claim amendments and arguments submitted in this paper are consistent with those presented during the course of the interview.

Applicants also note with appreciation the Examiner's withdrawal of the previous grounds of rejection.

The Office action rejects the independent claims under 35 under 35 U.S.C. § 102(e) as allegedly being anticipated by U.S. Patent Publication No. 2004/0041827 to Bishof et al. ("*Bishof*"). The remaining dependent claims are rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by *Bishof* or under 35 U.S.C. § 103(a) as allegedly being unpatentable over *Bishof* in view of U.S. Patent No. 6,223,306 to Silva et al. ("*Silva*"), U.S. Patent Publication No. 2005/0015666 to Kamani et al. ("*Kamani*"), and/or further in view of U.S. Patent Publication No. 2004/0250243A1 to Banerjee et al. ("*Banerjee*"). For at least the foregoing reasons, Applicants respectfully traverse these grounds of rejection.

Initially, Applicants note that the cited *Kamani* reference is not prior art. In fact, as acknowledged by the Examiner during the interview, the *Kamani* reference is Applicants' own published application. As such, Applicants respectfully request withdrawal of this ground of rejection.¹

As discussed during the interview, Applicants' invention generally relates to a testing system configured to consistently evaluate test results across multiple testing environments. As will be appreciated, due to inevitable differences in components of each test environment, a particular test will often produce different resulting outputs. For example, when testing a

¹ Although the prior art status of all of the cited art is not being challenged at this time, Applicants reserve the right to challenge the prior art status of the cited art at any appropriate time, should it arise. Accordingly, any arguments and amendments made herein should not be construed as acquiescing to any prior art status of the cited art.

software object in a computing system there often exists differences in components—both hardware (e.g., processing speeds and type, memory size and type, etc.) and/or software (e.g., application, operating system, etc.)—that will inevitably produce different results for a single test. As such, the test program may inappropriately indicate that the software object is not operating as intended. Accordingly, a test developer will often be required to create or maintain instructions for each test program. Moreover, as new environments are developed as a result of technological advances, the developer may also be required to develop additional instructions for these new environments, which can be a rather onerous process.

In order to overcome the problems noted above, Applicants advantageously provide for consistent evaluation of an object across multiple testing environments without having to generate or maintain new or additional test instructions for each environment. In order to accomplish this task, embodiments maintain a database with a set of test entry environments, each of which include different environmental conditions for which a particular type of test was previously executed in. The results of running the specific test in each of the test entry environments are also stored and keyed to their corresponding test entry environmental conditions. As such, when the same test is executed in another environment, the set of test entry environments is accessed for determining if an approximate or exact match therewith exists. If a match or approximate match is found, the results for the test entry (i.e., the expected results) are then compared to the actual results currently generated from executing the test in the current environment for determining if the test passed or failed.

Independent method claim 1 is directed towards some of the above embodiments and recites receiving actual test results, the actual test results being generated as a result of performing a test in a test environment. Environmental data is also received that defines the test environment under which the actual test results are generated. In response to the received environmental data when attempting to find a match therewith, the received environmental data is compared with a set of test entry environments stored in a results retrieval sub-system. Note that each test entry environment of the set corresponds to a particular environment for which the test was previously executed. Based on the comparison, a specific test entry environment from among the set stored is selected, wherein environmental condition(s) for the selected test entry environment have increased commonality with environmental condition(s) of the environmental

data. Based on the selection of the specific test entry environment, expected test result(s) from the results retrieval sub-system are identified, which are also keyed to the selected specific test entry environment and resulted from the previous execution(s) of the test in the specific test environment. Then, the actual test results are evaluated against the identified expected test result(s) to determine if the test was successfully performed in the test environment.

As discussed during the interview, Applicant respectfully submits that the cited art fails to anticipate or make obvious the claimed invention. In particular, the cited alleged prior art does not disclose, suggest, or enable each and every element of Applicants' claimed invention.² For example, *Bischof*, *Silva*, and/or *Banergee*—taken either individually, or as a whole—do not disclose or suggest in response to received environmental data when attempting to find a match therewith, comparing the received environmental data with a set of test entry environments stored in a results retrieval sub-system, wherein each test entry environment of the set corresponds to a particular environment for which a type of test was previously executed; and based on the comparison, selecting a specific test entry environment from among the set of test entry environments stored in the results retrieval sub-system, wherein environmental condition(s) for the selected specific test entry environment have increased commonality with environmental condition(s) of the environmental data, as recited, *inter alia*, in claim 1.

Bishof discloses a non-client-specific testing of applications. Although *Bishof* is directed the same objective of the present invention (i.e., consistent evaluation of an object across multiple testing environments without having to generate or maintain new or additional test instructions for each environment), *Bishof* is directed toward a different aspect of accomplishing

² "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." MPEP § 2131. That is, "for anticipation under 35 U.S.C. 102, the reference must teach every aspect of the claimed invention either explicitly or impliedly." MPEP § 706.02. Applicants also note that "[i]n determining that quantum of prior art disclosure which is necessary to declare an applicant's invention 'not novel' or 'anticipated' within section 102, the stated test is whether a reference contains an 'enabling disclosure.'" MPEP § 2121.01. In other words, a cited reference must be enabled with respect to each claim limitation.

In order to establish a *prima facie* case of obviousness, "the prior art reference (or references when combined) must teach or suggest all the claim limitations." MPEP § 2143 (emphasis added). In addition, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one or ordinary skill in the art, to modify the references or to combine reference teachings. MPEP § 2143. During examination, the pending claims are given their broadest reasonable interpretation, i.e., they are interpreted as broadly as their terms reasonably allow, consistent with the specification. MPEP §§ 2111 & 2111.01. Finally, Applicants note that M.P.E.P. §2141.02 states that the cited references must be considered as a whole, including those sections that "teach away" from the claimed invention. (Citation omitted).

such task. More specifically, *Bishop* is concerned with recording user input in a generic form such that the input can be used across multiple environments to test such systems. Accordingly, *Bishop* monitors user actions and then generates an "abstract representation" of the user actions and possible results thereof. The abstract representation describes the user actions in a format independent manner, such that the representation can be used to recreate results of the user actions across multiple different environments.

Bishof, however, is silent with respect to: (1) storing a set of test entry environments, each of which corresponds to a particular environment for which a test was previously executed; and (2) comparing received environmental data with the set for selecting a specific test entry environment that has increased commonality with environmental condition(s) of the environmental data, as recited, *inter alia*, in claim 1. Nevertheless, during the interview it became apparent that although the Examiner agreed that *Bishof* does not disclose such features that these elements were considered by the Examiner obvious in view of what *Bishof* does disclose. Applicants, however, respectfully disagree and request that if this ground of rejection is maintained that the next Office action point out by column and line number where such features are disclosed or suggested in *Bishof* or other appropriate prior art reference when combined therewith. In any event, as agreed to during the interview, *Bishof* does not expressly disclose or suggest these elements; and therefore, claim 1 is patentably distinct over the cited *Bishof* reference.

Noting some of the deficiencies of *Bishof*, the Office action cites both *Silva* and *Banerjee*. *Silva* discloses a method and apparatus for testing "X" servers; *Banerjee* discloses testing subsystems on platforms for software applications. As noted above, the Office action relies on *Silva* and *Banerjee* for allegedly disclosing various features within some of the dependent claims. Accordingly, Applicants respectfully submit that neither *Silva* nor *Banerjee*—taken either individually or as a whole—rectify those deficiencies noted above with regard to *Bishof*. Accordingly, Applicants respectfully submit that the combination of the cited art of record does not render independent claim 1 unpatentable.

Applicants respectfully note that independent claims 16, 28, and 34 recite a method and computer program products with elements similar to those noted above with regard to claim 1. As such, Applicants respectfully submit that claims 16, 28, and 34 are patentably distinguishable

over the cited art of record for at least those reasons stated above with regard to claims 1 and 16; and therefore, Applicants respectfully request withdrawal of these grounds of rejection.

Based on at least the foregoing reasons, Applicants respectfully submit that the cited prior art fails to anticipate or make obvious Applicants' invention, as claimed for example, in independent claims 1, 16, 28, and 34. Applicants note for the record that the remarks above render the remaining rejections of record for the independent and dependent claims moot, and thus addressing individual rejections or assertion with respect to the teachings of the cited art is unnecessary at the present time, but may be undertaken in the future if necessary or desirable, and Applicants reserve the right to do so.

All objections and rejections having been addressed, Applicants respectfully submit that the present application is in condition for allowance, and notice to this effect is earnestly solicited. Should any question arise in connection with this application or should the Examiner believe that a telephone conference with the undersigned would be helpful in resolving any remaining issues pertaining to this application, the undersigned respectfully requests that he be contacted at +1.801.533.9800.

Dated this 10th day of January, 2007.

Respectfully submitted,

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